



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. MCTIGUE
DIRECTOR

April 23, 1991
AO-91-03

Alan Seewald, Esq.
Ritchie, Ennis, Seewald & Collins, P.C.
Five East Pleasant Street
Amherst, MA 01002

Re: Interpretation of "Employed for Compensation"
M.G.L. c.55, s.13

Dear Mr. Seewald:

I am in receipt of your letter dated March 22, 1991 regarding this Office's interpretation of the above referenced section with respect to an attorney engaged in representation of a town through a professional corporation or partnership. Because your letter and telephone conversations with our Office staff raise frequently asked questions, I am responding with an advisory opinion.

You have stated that your legal office represents two towns as town counsel, and has been special counsel to several other towns. You wish to sign a fund-raising letter directed to members of the local bar on behalf of a candidate who is seeking election to the U.S. House of Representatives. Fees from the two towns and from the special counsel assignment are paid directly to your firm and not to you personally. You are, in turn, paid from the profits of your firm which is a professional corporation.

It is the opinion of this Office that an attorney, other than a sole practitioner, who represents a town through his or her partnership or professional corporation is not considered a person "employed for compensation" within the meaning of M.G.L. c.55, s.13 provided that fees are paid directly to the partnership or corporation. There are several circumstances where this policy would not apply. For example, if these fees are simply "passed through" the partnership or professional corporation to the attorney actually performing the service for

the town, that attorney would be considered by this Office to be "employed for compensation" for purposes of M.G.L. c.55, s.13. Likewise, if the attorney was a sole practitioner performing such services, it is the opinion of this Office that he or she would be subject to the prohibitions of section 13.

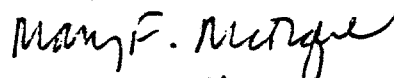
This opinion is also supported by the implications of a contrary view. If this Office viewed the arrangement outlined above as having you "employed for compensation" within the meaning of section 13, then the employees of all vendors providing any services to the Commonwealth or any subdivision would also be subject to this prohibition. Clearly, this would not be consistent with the legislative intent of section 13 and would cause unnecessary confusion and chaos for a large segment of the population.

In conclusion, as a town counsel or special town counsel under the circumstances you have described, you would not be prohibited by M.G.L. c.55, s.13 from signing a fund-raising letter on behalf of a candidate for any office as long as the conditions discussed above were met.

This opinion is based solely on the representations made in your letter and has been rendered solely in the context of M.G.L. c.55.

Please do not hesitate to call me if you have any additional questions.

Very truly yours



Mary F. McTigue
Director